

consisting of ultraviolet light curable resin, electron beam curable resin and a combination thereof. The remaining dependent claims have been amended to further clarify that which is claimed.

Independent claims 1 and 12 have been amended to clarify that the topcoat (and the pigmented wear layer in claim 12) comprises a polymeric resin binder wherein the polymeric resin binder consists essentially of a thermoset resin selected from the group consisting of ultraviolet light curable resin, electron beam curable resin, and a combination thereof. The recited polymeric resin binder may only consist essentially of a thermoset resin curable by UV and e-beam radiation to further distinguish the present invention from that disclosed in the cited art.

The present amendment further distinguishes the present invention over that of the cited references, including U.S. Patent No. 5,830,932 to *Shalov et al.* *Shalov et al.* was said by the PTO to show a wear layer in a surface covering that may be pigmented. This reference was combined with U.S. Patent No. 5,543,232 to *Ehrhart et al.* by the PTO in asserting that the present invention is unpatentable under 35 U.S.C. § 103(a). The PTO has asserted that it would have been obvious to one of ordinary skill in the art at the time the invention was made to make a pigmented layer since it is known, as shown by *Shalov et al.*, that such wear layers can be colored for aesthetic purposes. However, a showing of obviousness requires a motivation or suggestion to combine or modify prior art references, coupled with a reasonable expectation of success, see *Brown & Williamson Tobacco Corp. V. Philip Morris Inc.*, 229 F.3d 1120, 1124-25, 56 USPQ2d 1456, 1459 (Fed. Cir. 2000). As stated by the Examiner in the middle of page 4 of the Office Action, Mailed 12/16/2002, Paper No. 10, "the book ['Radiation Curing in Polymer Science & Technology'] appears to state that any effects that the pigments would have is unknown." The book supports the experience of those of

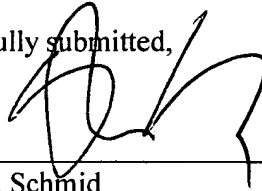
ordinary skill in the art that pigment may interfere with curing of the polymer. Therefore, the standard of reasonable expectation of success is not met.

As previously noted by the Applicants, *Shalov et al.* discloses a wear layer comprising a thermoplastic, plasticizer and a crosslinking agent. Column 29, lines 15-22. The *Shalov et al.* wear layer requires a substantial amount of thermoplastic polymers to form an interpenetrating polymer network. Column 4, lines 40-67. The *Shalov et al.* wear layer requires heat to fuse the thermal plastic resin to cure it and radiation to crosslink the composition. As amended, the present application does not disclose or claim the use of a thermoplastic resin material but instead claims a polymeric binder consisting essentially of a thermoset resin which is selected from the group consisting of an ultraviolet light curable resin, electron beam curable resin, and a combination thereof. Thus, one of ordinary skill in the art would not be motivated to combine that which is taught in *Shalov et al.*, an interpenetrating polymer network including a thermoplastic heat fused or cured polymer, with that taught in *Ehrhart et al.*

Upon entry of the above amendment, claims 1-3, 5-14, 16-28 and 56-59 remain pending in the present application. Applicants urge that the present application is now in a condition for allowance and an early notice to such effect is earnestly solicited. However, if it

is believed that any issues remain unresolved in the present application, Applicants request that the Examiner contact the undersigned.

Respectfully submitted,



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APPENDIX

1. (Twice Amended) A decorative floor covering comprising:
a substrate; and
a radiation cured pigmented topcoat disposed on the substrate having a stain resistance of about less than 150 Delta E units, wherein the topcoat comprises a [composition] polymeric resin binder and pigment, wherein the resin of the resin binder consists essentially of a thermoset resin selected from the group consisting of an ultraviolet light curable [layer] resin, electron beam curable [layer] resin, and a combination thereof.
5. (Amended) The decorative floor covering of claim 1, wherein [the substrate includes] a printed pattern is interposed between the substrate and the topcoat.
9. (Amended) The decorative floor covering of claim 7, wherein the embossed texture has raised surfaces and indentations, and the pigmented topcoat is disposed mainly on the raised surfaces.
10. (Amended) The decorative floor covering of claim 7, wherein the embossed texture has raised surfaces and indentations, and the pigmented topcoat is disposed mainly in the indentations.
12. (Twice Amended) A decorative floor covering comprising:
a substrate;
a radiation cured pigmented wear layer disposed on the substrate; and

a radiation cured topcoat disposed on and adjacent to the radiation cured pigmented wear layer, the topcoat layer having a stain resistance of less than about 150 Delta E units, wherein the topcoat and radiation cured pigmented wear layer each comprise a [composition] polymeric resin binder, wherein the resin of the resin binder consists essentially of a thermoset resin selected from the group consisting of an ultraviolet light curable [layer] resin, electron beam curable [layer] resin, and a combination thereof.

16. (Amended) The decorative floor covering of claim 12, wherein [the substrate includes] a printed pattern is interposed between the substrate and the topcoat.

17. (Twice Amended) The decorative floor covering of claim 16, wherein the [pigmented] topcoat or pigmented wear layer [or the topcoat] is in register with the printed pattern.

18. (Amended) The [surface] decorative floor covering of claim 12, wherein the substrate has a textured surface selected from the group consisting of mechanically embossed texture, chemically embossed texture, and chemically and mechanically embossed texture.

19. (Amended) The decorative floor covering of claim 18, wherein the topcoat or wear layer is in register with the embossed texture.

20. (Twice Amended) The decorative floor covering of claim 18, wherein the embossed texture has raised surfaces and indentations, and the pigmented wear layer [or the topcoat] is disposed mainly on the raised surfaces.

21. (Twice Amended) The decorative floor covering of claim 18, wherein the embossed texture has raised surfaces and indentations, and the pigmented wear layer [or the topcoat] is disposed mainly in the indentations.

22. (Twice Amended) The decorative floor covering of claim 18, wherein the [pigmented] topcoat or pigmented wear layer [or the topcoat] comprises nacreous pigments.

56. (NEW) The decorative floor covering of claim 9, wherein there is substantially no pigmented topcoat in the indentations.

57. (NEW) The decorative floor covering of claim 10, wherein there is substantially no pigmented topcoat on the raised surfaces.

58. (NEW) The decorative floor covering of claim 20, wherein there is substantially no pigmented wear layer in the indentations.

59. (NEW) The decorative floor covering of claim 21, wherein there is substantially no pigmented wear layer on the raised surfaces.